

REMARKS

Claims 1-20 are all the claims pending in the application.

Statement of Substance of Interview

As an initial matter, Applicants' representative thanks the Examiner for the courtesies extended during the telephone interview conducted on November 25, 2008. In view of the helpful comments provided by the Examiner during the interview, and to expedite prosecution of the instant application, claims 1, 5, 10, and 14 have been amended. Applicants respectfully submit that the amendments place the application in immediate condition for allowance as preliminarily agreed to by the Examiner (*also see* Interview Summary).

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

Claim Rejections - 35 U.S.C. § 103

Claims 1-2, 5, 8, 9, and 19

Claims 1-2, 5, 8, 9, and 19 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,864,547 to Strodtbeck *et al.* ("Strodtbeck") in view of U.S. Patent No. 5,999,832 to Vannatta *et al.* ("Vannatta"). For *at least* the following reasons, Applicants respectfully traverse the rejection.

Applicants do not acquiesce to this rejection. However, in order to expedite prosecution, Applicants amend claims 1 and 5 to recite, in some variation, that the maximum allowed power of the amplifier is reduced based on each of the BER messages generated for the signal transmitted at each of the N power levels. In Strodtbeck, on the other hand, even if an average of

the bit error rates is taken into account when updating each power control loop (Strodtbeck, col. 6, lines 37-39), the average is not based on the error rate of a signal corresponding to each of the N power levels as discussed during the interview, and agreed to by the Examiner. Vannatta also does not cure the deficient teachings of Strodtbeck.

Accordingly, Applicants respectfully submit that claims 1 and 5 are in immediate condition for allowance.

Claims 2, 8, 9, and 19 are patentable *at least* by virtue of their dependency.

Claims 3, 4, 6, and 7

Claims 3, 4, 6, and 7 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodtbeck in view of Vannatta, and further in view of U.S. Patent No. 5,991,280 to Ichiyoshi. Since claims 3, 4, 6, and 7 depend from claims 1 and 5, and since Ichiyoshi does not cure the deficient teachings of Strodtbeck and Vannatta with respect to claims 1 and 5, Applicants respectfully submit that claims 3, 4, 6, and 7 are patentable *at least* by virtue of their dependency.

Claims 10-18

Claims 10-18 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodtbeck in view of Ichiyoshi, and further in view of Vannatta. For *at least* the following reasons, Applicants respectfully traverse the rejection.

Amended claims 10 and 14 recite, in some variation, that the power level of the amplifier is increased or decreased based on each of the CB BER measurement reports corresponding to

the signal transmitted at each of the N power levels. Therefore, claims 10 and 14 are patentable for *at least* reasons similar to those given above with respect to claim 1.

Claims 11-13 and 15-18 are patentable *at least* by virtue of their dependency.

Claim 20

Claims 20 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodtbeck in view of Vannatta, and further in view of U.S. Patent No. 6,212,360 to Fleming *et al.* ("Fleming"). Since claim 20 depends from claim 5, and since Fleming does not cure the deficient teachings of Strodtbeck and Vannatta with respect to claim 5, Applicants respectfully submit that claim 20 is patentable *at least* by virtue of its dependency.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111 AND
STATEMENT OF SUBSTANCE OF INTERVIEW
U.S. Appln. No.: 09/529,773
Attorney Docket No.: A7046

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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